

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.01 of 2023
Date of Decision: 04.10.2024

Emaar India Limited (formerly known as Emaar MGF Land Limited), 306-308, 3rd floor, Square One, C-2, District Centre, Saket, New Delhi-110017

Second address Emaar Business Park, MG Road, Sikanderpur, Sector-28, Gurugram-122002, Haryana.

Appellant/Promoter

Versus

1. Samrath S. Rajnayak son of Dr. Sudhir K. Jain;
2. Mrs. Mamta A. Rajnayak wife of Samrath S. Rajnayak;
3. Dr. Sudhir K. Jain son of Late Shri S.P. Jain

All are respondent of H.No.2514, Sector-D, Pocket-2, Vasant Kunj, New Delhi 110070

CORAM:

Justice Rajan Gupta

Chairman

Present: Mr. Kunal Dawar, Advocate, along with
Ms. Tanika Goyal, Advocate,
for the appellant.

ORDER:

Rajan Gupta, Chairman (Oral):

Present appeal is directed against the order¹ passed by the Authority², operative part whereof reads as under:-

17. Hence, the Authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under Section 34(f):

i. The respondent/promoter is directed to refund the amount i.e. Rs.1,11,55,635/- received by it from the complainants along with interest at the rate of 9.80% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and

¹ Order dated 25.07.2024

² Haryana Real Estate Regulatory Authority, Gurugram

Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

18. *Complaint stands disposed of.*

19. *File be consigned to the registry.*

2. At the time of filing of the appeal, the appellant had made pre-deposit of Rs.2,11,54,435/- in view of proviso to Section 43(5) of the RERA Act³.

3. On 18.01.2024, the parties expressed their willingness to explore the possibility of amicable settlement. In view of same, the following order was passed on the said date:-

*“Present: Ms. Tanika Goyal, Advocate,
for the appellant.*

*Mr. Yuvraj Samant, Advocate
for the respondents.*

Learned counsel for the parties have addressed at some length. Certain queries have been raised. They pray for some time to address on the same.

Needless to observe that parties are at liberty to explore the possibility of amicable settlement of the issue.

List on 22.03.2024.

*Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal*

*Anil Kumar Gupta
Member (Technical)”*

4. Today, when the matter has been taken up for hearing, Mr. Dawar submits that during the pendency of the appeal, a settlement has been arrived at between the appellant and the respondents-allottees, one of whom, Mr. Samrath S. Rajnayak-

³ Real Estate (Regulation and Development) Act, 2016

respondent/allottee No.1 is present in Court. As per Mr. Dawar, the respondents-allottees instead of taking refund, has decided to take possession and some amount of compensation in lieu of full and final settlement of all their claims. Mr. Dawar has produced a copy of agreement, which is taken on record as Mark-'A'. Mr. Samrath S. Rajnayak-Respondent/allottee No.1 has made a statement in the aforesaid terms, same is taken on record as Mark-'B'.

5. Mr. Dawar submits that in view of settlement, he may be allowed to withdraw this appeal and the amount of pre-deposit be refunded to the appellant-promoter along with interest accrued thereon.

6. This prayer is accepted.

7. In view of above, the appeal is hereby dismissed as withdrawn.

8. As the matter has been disposed of on the basis of settlement arrived at between the parties, the amount of Rs.2,11,54,435/- deposited by the appellant/promoter with this Tribunal as pre-deposit in terms of proviso to Section 43(5) of the RERA Act, along with interest accrued thereon be remitted to the learned Authority for disbursement to the appellant/promoter, subject to tax liability, if any, according to law.

9. Needless to observe as the matter has been decided on the basis of settlement, it would not operate as a precedent.

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

04.10.2024
Manoj Rana